

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION
Civil Action No. 2:22-cv-743-RMG**

Justin M. Follmer and Francesca N. DiSalvo-Follmer,

Plaintiffs,

v.

Pro Sports, Inc., d/b/a Champion Sports, Hanesbrands, Inc., and HBI Branded Apparel Enterprises, LLC,

Defendants.

NOTICE OF REMOVAL

The Defendants, Pro Sports, Inc. d/b/a Champion Sports; Hanesbrands Inc. (improperly identified in the Complaint as “Hanesbrands, Inc.”); and HBI Branded Apparel Enterprises, LLC, hereby remove this civil action to the United States District Court for the District of South Carolina, Charleston Division, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446. In support thereof, Defendants state the following:

1. In this civil action, Plaintiffs seek to recover for personal injuries allegedly suffered by Plaintiff Justin M. Follmer in an accident that occurred on or about February 27, 2021. (Complaint ¶ 21.) The Plaintiffs’ Complaint is attached to this Notice as Exhibit A.

2. The Plaintiffs filed suit on January 6, 2022, in the Charleston County Court of Common Pleas, which, pursuant to 28 U.S.C. § 121(1), is within the Charleston Division of the United States District Court for the District of South Carolina.

3. In their Complaint, Plaintiffs allege that they are residents of Charleston County, South Carolina. (Ex. A, Complaint ¶¶ 1, 2.)

4. Defendant Pro Sports, Inc. d/b/a Champion Sports is organized under the laws of the State of New Jersey and has as its principal place of business the State of New Jersey. (See Exhibit B.)

5. Defendant Hanesbrands Inc. is organized under the laws of the State of Maryland and has as its principal place of business the State of North Carolina. (See Exhibit C.)

6. Defendant HBI Branded Apparel Enterprises, LLC is organized under the laws of the State of Delaware and has as its principal place of business the State of North Carolina. (See Exhibit D.)

7. There is complete diversity of citizenship between the Plaintiffs and the Defendants, and this case is now removable based on the Court's diversity jurisdiction. 28 U.S.C. § 1332(a).

8. This is a products liability action in which the Plaintiffs assert that Defendants were negligent, strictly liable, and breached warranties to Plaintiffs resulting in injuries while Plaintiff Justin M. Follmer was using a hurdle at the Black Flag Gym in Johns Island, South Carolina. (Ex. A, Complaint ¶ 21). The Defendants deny any liability and fault.

9. Plaintiffs claim that as a result of this accident Mr. Follmer "suffered severe and permanent injuries," "disfigurement, severe pain, suffering, emotional distress, loss of enjoyment of life, loss of consortium, and mental anguish." (Ex. A, Complaint ¶ 24 and ¶ 31.) Plaintiffs further allege that Mr. Follmer underwent eight (8) surgical procedures; is claiming lost wages; and his wife, Plaintiff Francesca N. DiSalvo-Follmer, is claiming "substantial losses of the marital rights to company, society, cooperation, affection, assistance, fellowship, aid, and relations with her spouse." (Ex. A, Complaint ¶ 34.)

10. In addition to seeking actual damages for the alleged injuries, Plaintiffs also seek to recover punitive damages against the Defendants. (Ex. A, Complaint ¶ 35.)

11. The amount in controversy exceeds Seventy-five Thousand and No/100 (\$75,000.00) Dollars, exclusive of interest and costs. *See Woodward v. Newcourt Commercial Finance Corp.*, 60 F. Supp. 2d 530 (D.S.C. 1999) (holding that case was properly removed where it did not appear to a legal certainty that Plaintiff's claims were for less than the jurisdictional amount).

12. Pursuant to 28 U.S.C. § 1446(a), Defendants have attached all process and pleadings served upon them in the State Court action.

13. Defendants shall provide notice of this removal to the Clerk of Court for the Charleston County Court of Common Pleas and shall request an Acknowledgement from the Clerk and, upon receipt, will file it with this Court.

14. Further, Defendants will file responsive pleadings within the time permitted under Fed. R. Civ. P. 81.

WHEREFORE, Defendants Pro Sports, Inc. d/b/a Champion Sports; Hanesbrands Inc.; and HBI Branded Apparel Enterprises, LLC, respectfully file this Notice of Removal so that this case may proceed in the United States District Court for the District of South Carolina, Charleston Division, that no further proceedings be held in said case in the Charleston County Court of Common Pleas, and for such other further relief as the Court deems just and proper in the circumstances.

[SIGNATURE ON FOLLOWING PAGE]

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